

Appln No. 10/723,817

Amdt date February 7, 2005

Reply to Office action of October 5, 2004

REMARKS/ARGUMENTS

Claims 1-25 are pending in this application, of which claims 1, 10, 14, and 18 are independent. Claims 21-23 have been canceled and claims 24 and 25 have been added. Claims 1, 6-8, 10, 13, 14 and 18-20 have been amended to more completely cover the invention. The amendments to the claims add no new matter and find full support in the application as originally filed. In view of the above amendments and following remarks, Applicant respectfully requests reconsideration and a timely indication of allowance.

Rejections under 35 U.S.C. § 102(b)

The Examiner has rejected claims 18 and 20 under 35 U.S.C. 102(b) as being anticipated by Rasso (U.S. Pat. No. 2,384,338). The Examiner has rejected claims 18 and 19 under 35 U.S.C. 102(b) as being anticipated by O'Fearna (U.S. Pat. No. 4,576,364). Applicant respectfully traverses these rejections.

Claim 18 has been amended to recite the following limitations: "A gate pole comprising. . ." and "wherein the pin is adapted to be inserted into a drilled socket in a pool decking." Support for the amended claim language may be found in the application on page 6, lines 16-17 and lines 26-28.

Rasso describes a fence post which may be driven into the ground without mutilating its upper end. Rasso also describes a removable driving head that may be attached to a post when it is driven into the ground. Rasso, however, does not describe a gate post having a pin adapted to be inserted into a drilled socket in a pool decking. Accordingly, it is believed that claim 18 is patentable over the cited reference.

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Claim 20 depends from claim 18. Since claim 20 depends from claim 18 and because it contains additional limitations distinguishing it from the cited reference, claim 20 is also believed to be patentable.

O'Fearna describes a portable wind screen having poles of sufficient length to have a protruding end that can be pushed into the ground or soil to stand the screen upright. In particular, O'Fearna describes a stake telescoped within hollow poles, the stake being cut at one end at such an angle as to provide a sharp point for ease of insertion into the sand. O'Fearna, however, does not describe a gate post. More specifically, O'Fearna does not describe a gate post having a pin adapted to be inserted into a drilled socket in a pool decking. Accordingly, it is believed that claim 18 is patentable over the cited reference.

Claim 19 depends from claim 18. Since claim 19 depends from claim 18 and because it contains additional limitations distinguishing it from the cited reference, claim 19 is also believed to be patentable.

Rejections under 35 U.S.C. §103(a)

The Examiner has rejected claim 20 under 35 U.S.C. 103(a) as being unpatentable over O'Fearna. Claim 20 depends from claim 18. For the reasons discussed above, it is believed that claim 18 is patentable over the cited reference. Since claim 20 depends from claim 18 and because it contains additional limitations distinguishing it from the cited reference, claim 20 is also believed to be patentable.

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The Examiner has rejected claims 1-17 under 35 U.S.C. § 103(a) as being unpatentable over Sadinsky et al. (U.S. Pat. No. 5,664,769) in view of O'Fearna. In particular, the Examiner states that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a lightweight fence and gate as disclosed by Sadinsky et al. to have an insert and pin as taught by O'Fearna in order to provide for easy insertion of the poles, while providing for safe and easy carrying and storage of the poles. Applicant respectfully traverses this rejection.

Independent claim 1 has been amended to include the following limitations: "wherein the pins are adapted to be inserted into the pool deck adjacent to the pool; and wherein the pool deck has a plurality of sockets, each socket adapted to receive one pin." Independent claim 10 has been amended to include the following limitations: "wherein the pins are adapted to be inserted into the deck adjacent to the pool; and wherein the pool deck has a plurality of sockets, each socket adapted to receive a pin." Independent claim 14 has been amended to include the following limitations: "inserting the pins protruding from the plurality of poles into a deck surrounding a swimming pool . . . the deck having drilled sockets adapted to receive the pins." Support for the amended claim language may be found in the application on page 6, lines 16-17 and lines 26-28.

As discussed above, O'Fearna teaches a portable wind screen having poles of sufficient length to have a protruding length that can be pushed into the ground or soil to stand the screen

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upright. In particular, O'Fearna describes a stake telescoped within a hollow pole, the stake being cut at one end at such an angle as to provide a sharp point for ease of insertion into the sand. O'Fearna, however, does not teach or suggest a gate post. More specifically, O'Fearna does not teach or suggest a fence and gate having pins wherein the pins are adapted to be inserted into a pool deck adjacent to a pool and wherein the pool deck has a plurality of sockets, each socket adapted to receive a pin. Accordingly, it is believed that claims 1, 10 and 14 are patentable over the cited reference.

Claims 2-9 depend directly or indirectly from claim 1, claims 11-13 depend directly from claim 10 and claims 15-17 depend directly from claim 14. Since claims 2-9, 11-13 and 15-17 depend from claims 1, 10 and 14, respectively, and because they contain additional limitations distinguishing them from the cited reference, claims 2-9, 10-13 and 15-17 are also believed to be patentable.

In view of the above, Applicant respectfully requests reconsideration of the application and the allowance of claims 1-20, 24 and 25.

Respectfully submitted,

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